

ANNUAL PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS (PAIR) PROGRAM PERFORMANCE REPORT

Fiscal Year: 2003

DESIGNATED AGENCY IDENTIFICATION		
Name: Virginia Office for Protection and Advocacy		
Address: 202 N. 9 th Street, 9 th Floor		
Richmond, VA 23219		
E-mail Address (if applicable): generalvopa@dsa.state.va.us		
Website Address (if applicable): www.vopa.state.va.us		
Phone: (804) 225-2042	TTY: (804) 225-2042	
Toll-free Phone: (800) 552-3962	Toll-free TTY: (800) 552-3962	
Fax: (804) 225-3221		
Name of P&A Executive Director: V. Colleen Miller, Esq.		
Name of PAIR Director/Coordinator: Jonathan Martinis, Esq.		
Person to contact regarding report: Sherry Confer, LCSW		
Contact Person's phone: (804) 225-2015		
PART I. NON-CASE SERVICES:		
A. Individual Information and Referral Services (I&R): (Multiple responses are not permitted.)		
1. Individuals receiving I&R <u>within</u> PAIR's priority areas	3,304	
2. Individuals receiving I&R <u>outside</u> of PAIR's priority areas	7,923	
3. Total individuals receiving I&R (lines A1+A2)	11,227	
B. Training Activities:		
1. Number of trainings presented by PAIR staff	18	
2. Number of individuals who attended these trainings (approximate)	755	
Describe the trainings presented by PAIR staff. Be sure to include information about the topics covered, the training methods used, and the purpose for the training. Use separate sheets if necessary.		
Date	Title of Presentation	Audience
10/10/02	Obligations of Child Day Care Centers under the ADA	Day Care Center Operators, Warrenton, VA
10/14/02	VOPA Overview	Staff, Annual Conference at the Peninsula Center for Independent Living, Hampton, VA
10/31/02	VOPA Overview	Healthcare Professionals, Roanoke, VA
11/02/02	Introduction to VOPA	Members, National Federation for the Blind Annual Conference, Spotsylvania, VA
12/13/02	Olmstead: Your Right, Your Time, Your Chance	Consumers, Advocates, and Family Members, Virginia Beach, VA
01/10/03	Making the I&R Standards Real	I&R Staff, NAPAS/ATTAC Program Management Conference, San Diego, CA

01/11/03	Networking with Non-P&A Providers	I&R Staff, NAPAS/ATTAC Program Management Conference, San Diego, CA
01/11/03	Enhancing Quality Assurance within Your I&R Program	I&R Staff, NAPAS/ATTAC Program Management Conference, San Diego, CA
01/14/03	VOPA Overview	Members, Virginia Association for Area Agencies on Aging, Richmond, VA
01/24/03	VOPA Overview	Staff/Clients, Eastern Shore Center for Independent Living, Exmore, VA
01/29/03	VOPA Overview	Chesterfield Community Services Board, Richmond, VA
03/20/03	VOPA Overview	Staff, Department of Mental Health, Mental Retardation and Substance Abuse Services, Richmond, VA
03/22/03	The Legal Rights of People Who are Deaf and Hard of Hearing	Advocacy Group for the Deaf and Hard of Hearing, Danville, VA
05/29/03	Cultural and Linguistic Competence in Delivering P&A Services	NAPAS/ATTAC P&A/CAP Annual Conference, Washington, D.C.
05/31/03	Overview of Rights, Protection, and Advocacy	Consumers/Advocates, "Day for the Disabled," Norfolk, VA
09/05/03	Persons with Disabilities in the Domestic Violence and Criminal Justice System	Staff, Central Virginia Criminal Justice Training Academy, Richmond, VA
09/08/03	Accessible Recreation: What the Law Requires	Members, Virginia Society for Parks and Recreation, Roanoke, VA
09/20/03	Effective Advocacy	Virginia Brain Injury Association, Richmond, VA

C. Information Disseminated to the Public:

1. Radio and TV appearances by PAIR staff	0
2. Newspaper/magazine/journal articles	9
3. PSAs/videos aired	0
4. Hits on the PAIR/P&A website	8,788
5. Publications/booklets/brochures disseminated	15,509
6. Other) VOPA produced logo materials which included contact information for VOPA and were disseminated at fairs, exhibits, focus groups, and other activities. The logo materials included: key chains, pencils, pencils, magnets, and notepads. DOJ ADA Guide to Disability Rights Law, DOJ ADA Questions and Answers Booklet, DOJ ADA Requirements Fact Sheet, DOJ ADA Fact Sheet, DOJ Materials on Accessible Parking, DOJ Materials on Accessible Transient Lodging, EEOC Federal Laws Prohibiting Job Discrimination Questions and Answers fact sheet, EEOC The Fair Housing - It's Your Right Act fact sheet, EEOC The Family and Medical Leave Act, The Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964 fact sheet, EEOC Your Employment Rights as a Individual with a Disability under the ADA Act of 1990 fact sheet, Jobs Accommodation Network (JAN) fact sheet, Mediation brochure, OCR Student Placement in Elementary and Secondary Schools and Section 504 and Title II of the ADA, and Virginia Relay Center brochure.	

PART II. INDIVIDUALS SERVED:	
A. Individuals Served: (An individual is counted only once per fiscal year. Multiple counts are not permitted for lines A1 through A3.)	
1. Individuals who were still being served as of October 1 (carryover from prior fiscal year) <i>*1case included that was served using Virginians with Disabilities Act funding</i>	47
2. Additional individuals who were served during the year	92
3. Total individuals served (lines A1+A2)	139
4. Individuals who had more than one case file opened/closed during the fiscal year. (This number is not added to the total on line A3 above.)	0
B. Individuals still served as of September 30 (carryover to next year) (May not exceed total on line II.A.3 above.) <i>*1case included that was served using Virginians with Disabilities Act (VDA) funding</i>	
	54
C. Problem Areas/Complaints of Individuals Served:	
01. Architectural accessibility	28
02. Employment	5
03. Program access	86
04. Housing	1
05. Government benefits/services	16
06. Transportation	2
07. Education	9
08. Assistive technology	0
09. Voting	0
10. Health Care	24
11. Insurance	0
12. Non-government Services	0
13. Privacy Rights	0
14. Access to Records	1
15. Abuse	0
16. Neglect	1
17. Other	2
D. Reasons for Closing Individual's Case Files:	
1. Issues resolved partially or completely in the individual's favor	74
2. Other representation found	0
3. Individual withdrew complaint	6
4. Appeals were unsuccessful	3
5. PAIR services not needed due to individual's death, relocation, etc.	3
6. PAIR withdrew from case	0
7. PAIR unable to take case because of lack of resources	0
8. Individual's case lacks legal merit	5
9. Other (Please explain on separate sheet.)	9
E. Intervention Strategies Used in Serving Individuals: (List the <u>highest level</u> of intervention used by PAIR prior to closing each case file.)	
1. Technical assistance in self-advocacy	15
2. Short-term assistance	25
3. Investigation/monitoring	0
4. Negotiation	43
5. Mediation/alternative dispute resolution	0
6. Administrative hearings	0
7. Litigation (including class actions)	6
8. Systemic/policy activities	0

PART III. STATISTICAL INFORMATION ON INDIVIDUALS SERVED:	
A. Age of Individuals Served: (as of October 1) (Multiple responses not permitted.)	
1. 0 - 4	2
2. 5 - 22	14
3. 23 - 59	98
4. 60 - 64	6
5. 65 and over	13
6. Unknown	6
B. Gender of Individuals Served: (Multiple responses not permitted.)	
1. Females	51
2. Males <i>(includes 1 case served with VDA funding)</i>	88
C. Race/Ethnicity of Individuals Served: (Multiple responses not permitted.)	
1. White <i>(includes 1 case served with VDA funding)</i>	96
2. Black or African American	32
3. American Indian or Alaska Native	1
4. Asian	1
5. Native Hawaiian or other Pacific Islander	0
6. Hispanic or Latino	3
7. Race/ethnicity unknown	6
D. Living Arrangements of Individuals Served: (Multiple responses not permitted.)	
01. Independent	84
02. Parental or other family home <i>(includes 1 case served with VDA funding)</i>	16
03. Community residential home	0
04. Foster care	0
05. Nursing home	3
06. Public institutional living arrangement	0
07. Private institutional living arrangement	0
08. Jail/prison/detention center	36
09. Homeless	0
10. Other living arrangements	0
11. Living arrangements not known	0
E. Primary Disability of Individuals Served: (Identify the individual's primary disability, namely the one directly related to the issues/complaints raised by the individual.)	
01. Blind/visual impairment	12
02. Deaf/hard of hearing	32
03. Deaf-blind	0
04. Orthopedic impairment	25
05. Mental illness	0
06. Substance abuse	0
07. Mental retardation	0
08. Learning disability	5
09. Neurological impairment	4
10. Respiratory impairment	2
11. Heart/other circulatory impairment	5
12. Muscular/skeletal impairment	2
13. Speech impairment	0
14. AIDS/HIV	1
15. Traumatic brain injury	0
16. Other disability	51
PART IV. SYSTEMIC ACTIVITIES AND LITIGATION:	
A. Systemic Activities:	

1. Number of policies/practices changed as a result of non-litigation systemic activities. (There is no way VOPA can accurately report the actual number of policies and practices that changed. However, based on the case examples noted here, we estimate about 109.)	At least 109
2. Number of individuals potentially impacted by policy changes (Again there is not a way to accurately estimate the number of individuals potentially impacted by policy/practice changes. In Virginia, there are approximately one million persons with disabilities. VOPA would like to believe that the policy/practice changes are enduring and that at least through word of mouth, could potentially impact every Virginian with a disability and every visitor to Virginia with a disability.)	Unknown
Describe your systemic activities. Be sure to include information about the policies that were changed and how these changes benefit individuals with disabilities. Include case examples of how your systemic activities impacted individuals served. (Attach separate sheets if necessary.) See specific case examples in Part V.	
Through VOPA's 2003 Title III Accessibility Campaign, individuals throughout the Commonwealth will be aided. VOPA hired law students to do random accessibility surveys of restaurants, hotels, offices, and theatres throughout the Commonwealth. If the locations were found to be in violation of the ADA and ADAAG, VOPA sent a technical assistance letter to the site demanding that it correct the violations. Approximately one hundred settlements have been executed, affecting people with disabilities in every part of the Commonwealth. Therefore, approximately one million persons with disabilities have been aided (that is the estimated number of people with disabilities in Virginia).	
VOPA is continuing to advocate for policy changes in the Department of Corrections (DOC) regarding the way DOC accommodates inmates who are deaf or hard of hearing. DOC has already agreed to change its policy and provide interpreters for inmates who need them for disciplinary and grievance procedures as well as for medical and mental health treatment. This has had a positive impact on the approximately two dozen deaf and hard of hearing inmates.	
VOPA tracks and monitors relevant legislation each year. This includes commenting on proposed bills and providing research and information to advocates and legislators. This effort includes legislation relevant to PAIR and individuals with disabilities who may be served by PAIR.	
B. Litigation/Class Actions:	
1. Number of individuals potentially impacted by changes as a result of PAIR's litigation/class action efforts.	About one million
For Title III litigation, number is over one million, as that is the approximately number of persons with disabilities in the Commonwealth. VOPA brought two Title III litigation cases in the name of the agency, seeking class-like relief. The defendants settled the cases. Therefore, each and every person with a disability who visits the entities will be aided by the settlements.	
2. Number of individuals named in class actions	About one million
VOPA brought two cases in its own name, alleging that it has the authority to represent the interests of all Virginians with Disabilities. While not, strictly speaking, class actions, these cases sought class-like relief. Both cases were successful, resulting in benefits to all Virginians with disabilities.	
Describe your litigation/class action activities. Explain how individuals with disabilities benefited from your litigation activities. Be sure to include case examples that demonstrate the impact of your litigation. (Attach separate sheets if necessary.)	
See case examples in Part V.	
PART V. PAIR'S PRIORITIES AND OBJECTIVES:	
Priority 1: ADA Title III Accessibility To provide advocacy and legal representation to persons with disabilities who have been denied access to public accommodations in violation of Title III of the Americans with Disabilities Act (ADA). Needs/Issues/Barriers Addressed Denial of access to places of public accommodation by private sector entities in violation of	

Title III of the Americans with Disabilities Act.

This is a priority because VOPA determined that persons with disabilities rights to access to public accommodations were being violated. In addition, this was identified through a public comment process, with guidance by the Governing Board and with input from the VOPA Advisory Councils. The desired effect of addressing this priority is that more persons with disabilities will be able to exercise their rights unencumbered.

Indicators for Success Include the Completion of the Following Goals:

1. To protect the legal rights and represent the interests of individuals who are being denied access to places of public accommodation by private sector entities, in violation of Title III of the Americans with Disabilities Act.
2. To protect the legal rights of and represent the interests of PAIR-eligible children who have been denied physical access or program access to a day care facility.
3. To protect the legal rights and represent the interests of VDA-eligible children who have been denied physical or program access to a day care facility.
4. To protect the legal rights and represent the interests of persons with sensory disabilities who have been denied effective communication access or appropriate auxiliary aids and services.

Other indicators include successful case closures, number of trainings provided, number of publications distributed, and the number of entities that have come into compliance with the ADA/VDA.

Collaborative Efforts

U.S. Department of Justice – see example #5 below

Virginia Department of Social Services – see example #7 below

A local Commonwealth Attorney's Office and Police Department – see example #17 below.

Local law schools-see example #1 below

Number of Cases Served-76

Case Examples

- 1) VOPA engaged in a successful Title III ADA Campaign that resulted in approximately one hundred settlements. VOPA hired law students (as a result of participating in a job fair) to conduct random surveys of public accommodations including restaurants, hotels, offices, and theatres. If the survey showed that the accommodation was in violation of Title III of the ADA or ADAAG, VOPA wrote a technical assistance letter to the accommodation, outlining the violations and demanding that they be corrected. VOPA then engaged in settlement negotiations with the aim of entering into a binding settlement with the accommodation. To date, over two-hundred-and-fifty surveys were completed and approximately one-hundred settlements have been entered.
- 2) SW is a woman who uses a wheelchair for mobility. She shops for groceries at the Community Pride store in Richmond. She complained to VOPA that the store had removed the designated accessible parking for persons with disabilities. VOPA surveyed the location and found that it was in violation of Title III of the ADA and ADAAG (ADA Accessibility Guidelines for Buildings and Facilities) VOPA wrote a technical assistance letter to the facility demanding that it correct the violations. After VOPA did not receive a response, VOPA filed a lawsuit against the store in the United States District Court for the Eastern District of Virginia, Richmond Division. The complaint was titled, The Virginia Office for Protection and Advocacy, in its Official and Representative Capacities, v. Community Pride. The case was settled after suit was filed, with

the store agreeing to correct the violations and pay VOPA approximately three-thousand dollars in attorneys' fees.

- 3) TV is a woman who uses a wheelchair for mobility. She shops at several stores located in a strip mall in Warsaw, Virginia. She complained to VOPA that the strip mall did not have appropriate accessible parking, access ramps, or accessible routes. VOPA surveyed the location and found that it was in violation of the ADA and ADAAG. VOPA sent a technical assistance letter to the owner of the property. When the owner did not respond appropriately, VOPA filed a lawsuit in the United States District Court for the Eastern District of Virginia, Richmond Division. The case was titled, The Virginia Office for Protection and Advocacy, in its Official and Representational Capacities v. Gannon Industries. After the case was filed and served, the defendants agreed to settle the case by correcting the violations and paying VOPA approximately four-thousand dollars in attorneys' fees.
- 4) RB is a person who uses a wheelchair for mobility. He patronized a restaurant in Roanoke, Virginia. He complained to VOPA that the restaurant did not have appropriate accessible parking, accessible routes, or an accessible restroom. VOPA surveyed the location and found that it violated the ADA and ADAAG. VOPA sent a technical assistance letter to the restaurant owner. When the owner would not resolve the matter, VOPA filed a lawsuit in the United States District Court for the Western District of Virginia, Roanoke Division. The case is entitled [RB] v. Bad Wolf Bar-B-Q, Inc. and Fred Ellis d/b/a Bad Wolf Bar-B-Q, Inc. The case was pending at the close of FY 2003.
- 5) ZC is a boy whose mother was diagnosed with Hepatitis C. He attended a day care facility in Rocky Gap, Virginia. When the day care owner found out about his mother's condition, she told the other parents about it and expelled ZC. The mother complained to VOPA on behalf of herself and the child. VOPA represented the mother and son in a claim against the day care. When the mother disclosed that she did not wish for her son to return to the day care and, instead, wanted monetary damages, VOPA referred her to the United States Department of Justice. VOPA worked with the DOJ, providing it information on the case and consulting with it on appropriate settlement terms. As part of the settlement, VOPA will be providing training to the day care on ADA issues and sensitivity.
- 6) JM is a boy with autism who was expelled from a day care center due to behavioral issues. His mother contacted VOPA complaining that JM was "blackballed" from other day care centers in the area. The mother informed VOPA that JM's behaviors had improved due to counseling and training he had received. However, other day care centers still would not admit JM. VOPA counseled the mother to acquire a summary of the behavioral modifications, from school personnel, so that she could demonstrate techniques that had worked previously and demand that other day care centers at least try them before denying access to her child. VOPA stated that if day care centers prejudged her child without reviewing the techniques, they would likely be in violation of the ADA. The case was pending at the end of FY 03.
- 7) In addition, on a systemic level, VOPA completed its outreach and training priority from FY 02 in this year. VOPA had committed to doing ADA training, in cooperation with the Virginia Department of Social Services, for day care providers. VOPA developed a training program and materials and presented it at several training sessions.
- 8) VOPA also continued to monitor the Department of Social Services Day Care Regulations. The regulations will be re-promulgated in the near future. VOPA is observing the process to ensure that they new regulations are compliant with the ADA and require day care providers to comply with the ADA. The monitoring continues.
- 9) VR is a woman who is deaf. Her husband, who was also deaf, was admitted to a hospital. He was denied a sign language interpreter, as was she, for his entire admission period. VR complained to VOPA about this failing. VOPA sent a technical assistance letter and a demand that the hospital commit to providing sign language interpreters in the future and pay monetary damages to VR. Settlement negotiations were continuing at the close of FY 03.

- 10) DD is a student at a physical therapy school who is hard of hearing. He complained to VOPA that he was not being provided with adequate accommodations for his disability. VOPA is working with DD to help him gain these accommodations. The case was ongoing at the close of FY 03.
- 11) HC is a woman who is deaf and who was denied a sign language interpreter by her doctor. She complained to VOPA about the failing. VOPA sent a technical assistance letter to the doctor and a demand that the doctor provide an interpreter for her for all future appointments. The doctor entered into a settlement with VOPA agreeing to provide an interpreter, at no cost, for HC.
- 12) DF is a man who is deaf, who was denied a sign language interpreter by his doctor. He complained to VOPA about the failing. VOPA sent a technical assistance letter to the doctor and a demand that the doctor provide an interpreter for all future appointments. The doctor replied to VOPA that he already had such a policy and would continue to do so for DF and his other patients.
- 13) In July 2003, VOPA met with a private club in Lynchburg, Virginia that opened to the public for a dance on certain nights of the week. An individual who utilizes a wheelchair had reported that the facility had denied him entrance to the club based on the fact that he used a wheelchair. VOPA educated the owners of the facility about discriminating against individuals with disabilities, and inspected the facility with the owners to point out accommodations that could be made to the building to make it accessible to individuals in wheelchairs, as well as individuals with other disabilities.

After meeting with VOPA, the owner of the club signed a settlement agreement in which the club promised not to discriminate against individuals with disabilities, and to make their parking, building entrance, interior space, and restrooms accessible to individuals with disabilities, as well as to change the club's policy to accommodate individuals with disabilities regarding services provided at the club. Along with assisting the individual who brought the club to our attention, VOPA's efforts led to accommodations made by the club's owners that will allow access to the club by the entire community. These changes will have the long-lasting effect of allowing dozens of individuals with disabilities entrance to and comfort in a place to which they had long been denied access.

- 14) Also in FY 2003, VOPA met with the manager of a bowling center in Hampton, Virginia that did not have restrooms that were accessible to individuals in wheelchairs. Due to the architectural challenges of converting the existing restroom facilities, the manager agreed to and has installed a completely new restroom for use by individuals with disabilities that is completely ADA compliant. By reaching this settlement agreement with this facility, VOPA has helped to create an accessible bowling facility for all the residents of the greater Hampton area, thereby allowing dozens of disabled individuals to bowl or attend the facility with family members who bowl.
- 15) Additionally, in FY 2003, VOPA reached a settlement agreement with a truck stop along Interstate 95 to make their facility accessible. Upon arriving at the location, VOPA observed that there were no handicapped parking spaces, no accessible entrance, no accessible restrooms, and much of the inventory for sale was not accessible to individuals with disabilities. After meeting with the facility owner, VOPA reached an agreement whereby the facility would designate the appropriate number of accessible parking spaces, create and identify an accessible entrance, increase the width of paths of travel within the facility to accommodate wheelchairs, place inventory within the reach of individuals with disabilities, create an accessible restroom, and train all staff to further provide additional necessary accommodations to local and interstate travelers who stop at the facility. It seems likely that over the course of several years, hundreds of individuals with disabilities may venture into this facility and benefit from VOPA's efforts.

16) In June 2003, a female client went to a dental office with her guide dog and her husband. The receptionist would not allow the guide dog in the office. First, the receptionist told the client that other patients might not like the guide dog being there. The client asked the receptionist if they could compromise and have the guide dog assist the client to the examining room and then the guide dog could wait in the lobby with the client's husband. The receptionist refused to agree to this and then told the client that the dentist is allergic to dogs. The client left the office without any treatment. She contacted VOPA and requested that the receptionist and the dentist be educated on the ADA law that requires persons with services animals, such as guide dogs, to have access to places of public accommodation, such as this dental office. VOPA contacted the dentist who replied by saying that he was in the back with a patient the whole time this incident occurred and thus was unaware of what transpired. He replied that he has a son with autism and prides himself on being sensitive to the needs of the disabled. He knew about the ADA laws. He said that had his receptionist made him aware of the situation, this whole thing could have been avoided. He closed by saying that our client and her guide dog were welcome in his office anytime and that his office, as a place of public accommodation, will not discriminate against persons with disabilities. This matter was successfully resolved with advocacy efforts by VOPA.

17) VOPA received a complaint regarding the van accessible parking spaces in Salem, VA. Specifically, the complaint stated that the Salem Police officers were not writing tickets to persons who are unauthorized to park in the access aisles (striped areas) beside the van accessible parking spaces. (People were parking in the access aisles without a handicapped parking decal in the rear-view mirror or a handicapped parking license plate.) VOPA contacted the Commonwealth's Attorney (CA) for Salem and received an assurance that the Salem Police Department aggressively enforces state statutes and ordinances dealing with handicapped parking. The CA provided us with the name of the person in the Salem Police Department that enforces all parking. We gave this name to our client for future reference, in the event the client was ever in the unfortunate position whereby the client cannot enter/exit his vehicle because of another vehicle's parking position. The CA is the person in the position to interpret criminal and traffic laws; thus, the decision whether to prosecute offending vehicles that prohibited the client from entering and exiting his vehicle is within the CA's discretion. Thus, VOPA could not pursue the specific situation that occurred when an offending vehicle parked in the van accessibility aisle and prevented the client from exiting his vehicle. VOPA was instrumental in securing the name of the officer in the city police department who handles parking violations to give our client for future reference, as well as receiving assurances from the City's Commonwealth Attorney that the Salem Police Department aggressively enforces state statutes and ordinances dealing with handicapped parking.

18) DP is a man who utilizes an electric scooter. He complained that his local bank branch had an inaccessible entrance and that the van accessible parking space was incorrectly marked. After VOPA contacted the bank, they installed automatic doors and properly marked the parking space.

19) GB is a man with a vision impairment who utilizes a service animal. He was asked to leave a Norfolk restaurant because of the service animal. VOPA negotiated a settlement agreement with the restaurant where they agreed to refrain from future discriminatory acts and to alert all employees of the requirements of the ADA.

Priority 2: ADA Title II Accessibility

To provide advocacy and legal representation to individuals with disabilities who have been denied program, communication, or physical access to state and/or local government buildings, facilities, programs, or services in violation of Title II of the Americans with Disabilities Act.

Needs/Issues/Barriers Addressed

Denial of access to places of public accommodation by government entities in violation of Title

II of the Americans with Disabilities Act.

This is a priority because VOPA determined that persons with disabilities rights to access to state and local programs and facilities were being violated. In addition, this was identified through a public comment process, with guidance by the Governing Board and with input from the VOPA Advisory Councils. The desired effect of addressing this priority is that more persons with disabilities will be able to exercise their rights unencumbered.

Indicators for Success Include the Completion of the Following Goals:

1. To protect the legal rights of and provide representation to persons with disabilities who have been denied program, communication, or physical access to state and/or local government buildings, programs, or facilities.
2. In compliance with the holding and principles of Olmstead v. L.C., to ensure that people are provided with services in the most integrated and least restrictive environment appropriate to their needs.
3. To increase the accessibility of voter polling places for persons with disabilities.
4. To protect the legal rights and represent the interests of individuals who are being denied access to public transportation and/or para-transit services either because of (1) physical accessibility issues, (2) inappropriate denial of eligibility for services, or (3) para-transit scheduling/availability issues.
5. To protect, through the provision of short-term assistance, the legal rights of inmates in jails or prisons who have been denied access to appropriate medical care and/or programs due to their disability.

Collaborative Efforts

Virginia Department of Corrections – see examples #1 and 8

Virginia's Olmstead Task Force – see example #4

Virginia's State Board of Elections – see example #5.

Number of Cases Served-74

Case Examples

- 1) 1) OH was an inmate in the Virginia Department of Corrections. He was denied a sign language interpreter that he needed to participate in a required prison program. VOPA demanded that DOC provide an interpreter for the program for OH. DOC responded by "waiving" the program requirement. VOPA then filed a complaint against DOC in the Circuit Court for the City of Richmond. The case was entitled [OH] v. Virginia Department of Corrections, et al. DOC attempted to dismiss the suit, claiming sovereign immunity and that the case was moot because OH had been discharged. VOPA filed a brief in response and argued the case. The Judge denied the Motion to Dismiss. Subsequently, after settlement negotiations, DOC agreed to provide the course to OH, at a location convenient to him, and to provide him with a sign language interpreter, at no cost.

As a result of the OH case, DOC has hired a sign language interpreter to interpret for deaf inmates in grievance and disciplinary proceedings as well as for medical and mental health care treatment. Negotiations are ongoing regarding other accessibility issues.

- 2) JV is a woman who is blind and uses a service animal. She complained to VOPA that the City of Richmond had removed a four-way stop light at a corner that she often crossed. She complained that the corner was not inaccessible. VOPA wrote a letter to the City demanding that it restore the light. Negotiations were ongoing at the close of FY 03.

- 3) VOPA also represented the interests of a woman who has very low vision to help her participate fully in Virginia's Olmstead Task Force. The woman complained to VOPA that she was denied a reader and materials in an accessible format. VOPA helped her advocate for herself and provided other assistance in her demand that she be provided with equal access. The Task Force then guaranteed her that she would be provided with the accommodations she requested for the remainder of its work. There were no further problems.
- 4) VOPA served in a leadership capacity on the Olmstead Task Force. VOPA's representative served on the Task Force's Steering Committee, was the agency convener for two other subcommittees and the liaison to a third. When the final draft report was submitted for comments and final revisions, VOPA made over twenty suggestions for revisions or deletions. VOPA's representative argued for each of the changes. All but two, were accepted by the full task force.
- 5) VOPA continued to monitor polling place accessibility. VOPA also published its brochure "The Rights of Persons with Disabilities: One Person, One Vote." VOPA conducted surveys, in conjunction with the State Board of Elections, of several polling sites and offered technical assistance. VOPA's work on this issue will continue into FY 04.
- 6) JL is a person who uses para-transit. He also uses a service animal and an aide. His mother complained to VOPA that he was charged an additional fare for his aide. She complained that the driver would not allow the aide to ride with JL unless he paid the fare. VOPA sent a letter to the para-transit provider demanding that it refund the money, apologize to JL, and better train its drivers. The para-transit provider did all that VOPA requested.
- 7) LM complained to VOPA that a public transportation provider discriminated against him because of his disability. He stated that the provider has a policy of requiring riders to transfer buses, if they choose to do so, within one hour. He claims that this policy discriminates against him because he is unable to transfer, due to his disability, within one hour. VOPA is investigating the matter.
- 8) VOPA provided short-term assistance to several inmates under this goal. VOPA would forward disability discrimination complaints to the Department of Corrections, with a demand that it investigate the matter and take corrective action. In several cases, corrective action was taken, including faster access to medical, mental health, dental care, the provision of accommodations, and in one case, the restoration of "good time" credits.
- 9) MH is a woman who is hard of hearing who was enrolled in an adult education class administered by Norfolk Public Schools. She had requested an interpreter when she enrolled but the school had failed to provide one. After negotiations with VOPA, the school system provided MH with a sign language interpreter.
- 10) BH is a man with a hearing impairment who was denied a sign language interpreter for a public school open house. VOPA reached an agreement with the City of Newport News that the school system will provide sign language interpreters to parents attending school events such as open houses and parent-teacher conferences.
- 11) RP is a man who utilizes an electric scooter who complained that his neighborhood in Newport News was full of inaccessible sidewalks and curb cuts. VOPA contacted the city regarding his complaints. The city agreed to correct the problems and assure accessibility throughout the city.

Priority 3: Special Education Advocacy and Legal Representation

To provide advocacy and legal representation services to PAIR-eligible students with disabilities who require but have been inappropriately denied: (1) eligibility for special education services under the Individuals with Disabilities Education Act (IDEA); or (2) development of a 504 Plan under the Rehabilitation Act of 1973, as amended.

Needs/Issues/Barriers Addressed

Denial of eligibility for special education services under the Individuals with Disabilities Education Act (IDEA) or the development of a 504 Plan under the Rehabilitation Act is a violation of these children with disabilities rights. This is a priority because children with disabilities rights to an appropriate public education were being violated. In addition, this was identified through a public comment process, with guidance by the Governing Board and with input from the VOPA Advisory Councils. The desired effect of addressing this priority is that more persons with disabilities will be able to exercise their rights unencumbered.

Indicators for Success Include the Completion of the Following Goals:

1. To protect the legal rights of and represent the interests of PAIR-eligible students with disabilities who require but have been inappropriately denied eligibility for special education services under IDEA.
2. To protect the legal rights of and represent the interests of PAIR-eligible students with disabilities who require but have been denied a 504 Plan to which they are entitled under the Rehabilitation Act of 1973, as amended.

Collaborative Efforts-NA**Number of Cases Served-2****Case Examples**

A.H. is a child with dysgraphia whose mother contacted VOPA for assistance in obtaining special education services. VOPA provided her with information explaining eligibility requirements for special education services and the types of services available. VOPA also provided information regarding procedures for requesting special education services.

JL is a child that has been denied eligibility for special education services. The school system found that the child does not have a learning disability that meets the standard deficit to make her eligible for services. The parent requested assistance with advocating for appropriate services to be provided under an IEP or 504 Plan. VOPA is currently working with this family.

Priority 4: Training and Resource Development

To assist consumers, family members, advocates, and other organizations obtain the resources and skills necessary to advocate for themselves or their family member with a disability and to educate businesses, agencies, and other entities regarding their responsibilities and obligations under civil rights and non-discrimination statutes such as the Americans with Disabilities Act.

Needs/Issues/Barriers Addressed

Self-advocacy is a highly effective, empowering, and timely strategy for individuals with disabilities. An individual with a disability is best able to identify their needs and necessary supports, although this may be articulated through a representative. A knowledgeable, prepared consumer can achieve effective change with good communication skills, persistence, and credible resources and supports. Businesses, agencies, and other entities need to know their responsibilities prior to a complaint being voiced. VOPA has embraced the concepts of self-advocacy and enhancing public awareness; this is demonstrated through the

VOPA mission state that reads as follows:

“Through zealous and effective advocacy and legal representation to:

- Protect and advance legal, human, and civil rights of persons with disabilities;
- Combat and prevent abuse, neglect, and discrimination; and
- Promote independence, choice, and self-determination by persons with disabilities.”

Indicators for Success Include the Completion of the Following Goal:

To provide resource materials and training opportunities to individuals seeking information on legal rights or responsibilities and/or strategies regarding compliance with non-discrimination and civil rights statutes.

Collaborative Efforts

Centers for Independent Living – see example below.

Number of Cases Served-not limited to individual cases

Example

VOPA provided several trainings to individuals, organizations, and government agencies. VOPA provided the keynote address at a statewide conference, provided training statewide to day care providers, and implemented its “Office Hours” program. In the “Office Hours” program, VOPA staff schedule times to visit Centers for Independent Living through the Commonwealth to see their clients and provide legal advice on-site. The “Office Hours” program has been very successful, forging closer ties between CILS and VOPA and introducing VOPA and its services to persons who were unaware of them and generating cases. The program will continue into FY 04.

B. Priorities and Objectives for the Current Fiscal Year:

Please see attached priorities and objectives for FY 2004. VOPA has used the term “Focus Area” instead of “Priority.” This is a result of client and potential client feedback that telling someone their issue does not fall within our priorities gives the person the impression we are insensitive to their issue. This change was positively received by our Governing Board and our Advisory Councils.

PART V: NARRATIVE:

A. Sources of Funds Received and Expended:

1. PAIR FY 02-03 grant and carry-over funds	\$415,181
2. PAIR Expenditures	\$303,129

B. Budget for the Fiscal Year Covered by this Report:

Category	Expenditure Amounts
Wages and Salaries	\$196,113
Fringe Benefits (FICA, unemployment, etc.)	50,806
Materials/Supplies	1,841
Postage	1,010
Telephone	1,828
Office Rent	1,119
Travel	8,049
Equipment Rental/Purchase	2,648
Legal Services	485
Indirect Costs	37,394
Miscellaneous	1,836
Total	\$303,129

C. Description of PAIR staff (duties and person-years):

Position Description	Person-Years
Deputy Director	1 6
Managing Attorney	1 5
Staff Attorneys	5 1
Service Coordinators-Intake/Consumer Services Unit	3 7
Receptionist – Answering Telephones in Consumer Services Unit and scheduling intake, I&R, technical assistance telephone appointments	1 12
Administrative Assistant	1 2

D. Involvement with Advisory Boards (if any):

VOPA has established two Advisory Councils; one is specific to Protection and Advocacy for Individuals with Mental Illness (PAIMI, required by federal funding stream) and one was specific to Protection and Advocacy for Developmental Disabilities (PADD, voluntarily developed by VOPA). VOPA has expanded the PADD Advisory Council for FY 2004 to include all other disabilities. It has been re-named as the Disabilities Advisory Council (DAC) and VOPA staff, Governing Board members, and Council members are actively recruiting additional members to appropriately reflect this expansion. The DAC will provide input and feedback to VOPA about its PAIR activities. The Chair of the DAC is an ex-officio member of the Governing Board and is expected to attend Governing Board meetings. PAIR staff routinely attend the PADD/DAC meetings and attend the Governing Board meetings as the agenda dictates.

E. Grievances filed Under the Grievance Procedure:

VOPA addressed twelve appeals/grievances related to program eligibility. Two were reconsidered and ten were denied. VOPA received three appeals related to case closings. One was reconsidered and two were denied.

F. Coordination with the Client Assistance Program (CAP) and the State Long-Term Care Program, if these programs are not part of the P&A Agency:

CAP is part of VOPA.

Coordination with the State Long-Term Care Program (Virginia Department of Aging) occurs on an as needed basis. However, VOPA does attend and participate in their Virginia Public Guardian and Conservator Advisory Board.

The Department of Medical Assistance Services (DMAS) is the primary source of funding for the long-term care system in Virginia. Again, VOPA coordinates with them on an as needed basis. Specific activities in the past year have included participation in the Medicaid Buy-In and home-and community-based waivers workgroups.

Within 90 days after the end of the fiscal year covered by this report, mail one copy of this report to the RSA Regional Office and one copy to the RSA Central Office specified in the instructions.

Signature of agency official

Date